[Mr. Speaker] [31st July 1952

15 Sri K. Koti Reddi.
16 ,, V. R. Nagarajan.
17 ,, V. R. Krishna Ayyar.
18 ,, N. Ramakrishna Ayyar.' "

The motion was carried.

(4) AMENDMENT TO SCHEDULE IV TO THE MADRAS CITY MUNICIPAL ACT, 1919.

* THE HON. SRI N. SANKARA REDDI :—" Sir, I beg to move—

' *That the following draft of a rule proposed to be made by the Governor of Madras in exercise of the powers conferred by section 347 of the Madras City Municipal Act,* 1919 *(Madras Act IV of* 1919*), altering Schedule IV to that Act be approved :—*

DRAFT RULE.

In the said schedule to rule 14 *the following paragraph shall be added, namely :—*

" *No business shall be transacted at any meeting of the Taxation Appeals Committee unless the Chairman and at least one other member of the Committee are present. If the Chairman and one other member present are divided in opinion as to the decision to be given on any appeal, the appeal shall be decided at a meeting of the Committee attended by all the three members. All appeals coming up before the Committee at a meeting when all the three members are present, shall be decided according to the opinion of the majority of the members. In the event of disagreement among all the three members, the Chairman shall endeavour to bring about agreement among themselves or between any two of them over a specific proposal, failing which the opinion of the Chairman shall prevail.*" '

" Sir, while moving this I wish to explain the necessity for the amendment. The Taxation Appeals Committee of the Corporation of Madras consists of three members two of whom are elected by the Corporation of Madras and one is appointed by the Government who is also its Chairman. Under rule 14 under Schedule IV to the Madras City Municipal Act, 1919 the orders passed by the Commissioner, Corporation of Madras, in respect of tax assessment are heard by the Taxation Appeals Committee. As the quorum for the Appeals Committee is not prescribed under the rules it has been usual for the Committee to hear and decide the appeals with all the three members or with one member and the Chairman or even with the Chairman alone sitting. In certain appeals filed in his court, the Chief Judge of the Court of Small Causes, Madras

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City, observed that the decision of the Taxation Appeals Committee will not be valid unless all the three members of the Committee hear and decide appeals. As the elected members of the Committee are honorary members they cannot be expected to attend every meeting of the Committee and if their attendance at every meeting is insisted upon, the taxation appeals cannot be disposed of promptly. It is therefore found necessary to amend rule 14 under Schedule IV to the Madras City Municipal Act, 1919, fixing the quorum for meetings of the Taxation Appeals Committee as two members including the Chairman and providing that when there is no unanimity among the two members present, the appeals will be decided at a meeting of the committee attended by all the three members and that appeals coming up before a meeting of all the three members will be decided by a majority of members. In the event of disagreement among all the three members the proposal is that the Chairman will endeavour to bring about an agreement among themselves or between any two of them over a specific proposal, failing which, the opinion of the Chairman shall prevail."

MR. SPEAKER :—" The motion is—

' That the following draft of a rule proposed to be made by the Governor of Madras in exercise of the powers conferred by section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), altering Schedule IV to that Act be approved :—

DRAFT RULE.

In the said schedule to rule 14 the following paragraph shall be added, namely :—

" No business shall be transacted at any meeting of the Taxation Appeals Committee unless the Chairman and at least one other member of the Committee are present. If the Chairman and one other member present are divided in opinion as to the decision to be given on any appeal, the appeal shall be decided at a meeting of the Committee attended by all the three members. All appeals coming up before the Committee at a meeting when all the three members are present, shall be decided according to the opinion of the majority of the members. In the event of disagreement among all the three members, the Chairman shall endeavour to bring about agreement among themselves or between any two or them over a specific proposal, failing which the opinion of the Chairman shall prevail." "

SRI P. RAMAMURTHI :—" Sir, it is a simple motion and normally nobody would have expected that we on this side of the House would have much to say on this. I would however like to point out that the resolution only indicates the mentality of the Government, the understanding of the Government with regard to municipal administration. Already the powers of municipal administrations have been reduced to such an extent that even in respect of taxation measures passed by the local bodies, provision is made by the Government for the appointment of an outsider, the Government nominee, for the administration of those measures. In

this case the Chairman is appointed by the Government. I am opposed to this interference though it is altogether a different matter.

"In this particular resolution the Government say that no appeal shall be decided unless the Chairman and somebody else are present. Why not the Government state that the quorum of that body shall be two whether the Chairman chooses to attend the meeting or not. Any two of the three members should certainly constitute a quorum and these two can decide the appeals. Why give special power to the Chairman? It might be said : 'The Government have appointed him and he will make it a point to attend the meeting'. But I ask why not state it specifically? The Chairman is given overriding powers over the other members. A special position is given to him in the Committee. The Government should hereafter at least think of giving greater autonomous powers to the local bodies. The Hon. Chief Minister declared on the floor of this House that when the Constitution is amended greater powers must be given to the States. Why should not this Government apply that same principle and give more powers to the local bodies, municipalities and others? Why go and interfere in their affairs at every stage? The desire to give more power to these bodies must prevail when Government bring forward such amendments. They should change their outlook in regard to municipal administration. This amendment which Government have moved only indicates that the old outlook continues. That must go."

* SRI K. VINAYAKAM :—" Sir, my hon. Friend Mr. Ramamurthi has offered some remarks on the motion moved by the Hon. Minister for Local Administration, and I agree entirely with the remarks made by him. I will add one more for the consideration of the Hon. Minister if it is considered democratic. In the event of there being no unanimity of opinion among all the three members present in the Committee the Hon. Minister was pleased to say that the Chairman will endeavour to make one of the members to consent to his view and that view will be final. In case all the three disagree, the decision of the Chairman shall be final. This is what the Hon. Minister said. This is dictatorial and not democratic in principle, because the Chairman of the Committee is after all a paid servant of the Government. I am not against the present Chairman who is working there in the Corporation. I am only explaining the matter on general terms, and not on the basis of personalities. I suggest, when there is disagreement among the three, it should not be the privilege of the Chairman to have his view carried through in spite of the fact that two disagree with
10.40 a.m. him. It should be finally referred to the Council which is a bigger authority and which consists of more democratic elements and whose decisions shall be final. But the Government may say—it is also evident from the amendment—that it will be a tedious procedure to refer every matter to the Council and it will not be in the interests of the people also as it will involve inordinate delay in the disposal. Even then I reiterate my point, because when a person

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appeals to the Taxation Appeals Committee, he will have to wait at least for a period of three to four months before a final decision is reached by the Taxation Appeals Committee, and it does not matter if he is made to wait for one or two weeks more for a decision to be reached in the open session of the Council. I have also consulted my friends Mr. Anthony Pillai and Mr. Pakkirisami Pillai who also represent the Council and they are of the same view. Therefore, I request the Government to consider my suggestion and if it is incorporated in the amendment, we will welcome this amendment.''

* THE HON. SRI C. RAJAGOPALACHARI :—'' Sir, I want to say a few words merely by way of intervention and not by way of reply. I beg of the hon. Members who have great experience of Corporation and municipal affairs, to consider the matter from a practical and administrative point of view. This tribunal is to dispose of rupees, annas, pies of taxation, and an appeal is provided, and this appeal is the subject-matter of the discussion now. It is a ' yes ' or ' no ', whether it is Rs. 20 or Rs. 15 or Rs. 13, and when there is a difference of opinion they found it impossible to resolve the difference by a majority or minority vote ; hence all this complicated provision; it does not come up suddenly ; it has come after a long trial and by a request from some of the active members of the Corporation; some solution has to be found. Now, I am appealing to those who are here as Legislators that they should forget their personalities as Corporation members, and use their experience and come to a conclusion on this very delicate and difficult question. All Corporation members are elected members and they are always on the alert to plead for their constituents and they have to. At the same time, this Three-Man Committee should give a decision which is necessary and just. The Committee must decide it without fear or favour. The amendment that has been moved by the Hon. Minister for Local Administration may be tried, and it will relieve the members to a certain extent of their difficulties and embarrassments; if it does not succeed and if there is anything wrong, we can again change it. I submit, therefore, with all deference to the more experienced members here about the Corporation affairs, that this step is fair and this is a proposal resulting from considerable experience; let us accept this tentatively.

'' Regarding the other proposal made by the hon. Member Mr. P. Ramamurthi that even two members should sit down and carry on the business without the knowledge of the Chairman, I should say that an outsider has been specifically appointed as Chairman to judge the facts and decide the issue, and it will be no use giving the Corporation the right to meet and dispose it of by majority. It is impossible for a large Council to dispose of an appeal whether the tax should be Rs. 10, Rs. 15 or Rs. 20. I therefore submit that the amendment may be accepted.''

* SRI K. VINAYAKAM :—'' By way of personal explanation, Sir. I believe, Sir, the Hon. Chief Minister has conceded my

view. But, in this measure I am putting in more democratic spirit. The Government's view was to limit the issue at the stage of the Chairman. I said that the matter could go to the Council which is more democratic. Let it not be the rule of one man or at least two men. Instead let there be the rule of at least 50 members."

* THE HON. SRI C. RAJAGOPALACHARI :—" Sir, I thought I had dealt with the matter. I must again explain. If it should go to the Council whether the amount is Rs. 20 or Rs. 15 or Rs. 13 how can the Council decide it? Even there the same difficulty will arise. When a small body of three cannot decide, how can a numerical majority in a larger body dispose of the rupees, annas, pies question? "

* SRI S. C. C. ANTHONY PILLAI :—" Mr. Speaker, Sir, the central problem is not the problem of procedure. It is the question of deciding as to whether a particular re-assessment of a property tax is fair or not. We know from experience that the tendency is to re-assess the tax not on a scientific basis, but to give an arbitrary decree. Of course, there is also no scientific basis as to how the reassessment should be reduced. Therefore, if a procedure is laid down as to the manner and the ground on which there should be reassessment, the decisions given by the Taxation Appeals Committee would be to some extent reasonable. At present the Taxation Appeals Committee is merely a buffer between the taxation authority and the poor tax-payer. Unless some specific procedure is laid down as to how and to what extent there should be reassessment, no scientific assessment of taxation is possible."

* SRI N. GOPALA MENON :—" Sir, I would like to explain briefly the manner in which the properties in Madras City are taxed. One hon. Member said that the matter might go before the whole Council, so that the assessee may have the benefit of the opinion of majority of the Council. The position is this. Ordinarily the assessor first starts the game of assessing the property; then it goes to the Commissioner to whom the assessee has got a right of appeal and when the Commissioner finally assesses the property, it goes to the Taxation Appeals Committee presided over by a Government official. The present incumbent is a Corporation man promoted as Government official and the other two in the Committee are members of the Corporation Council. Anybody who is dissatisfied with the decision of the Taxation Appeals Committee can by a petition go to the Chief Court of Small Causes and agitate the matter over again. Therefore on the question of taxation, every reasonable chance is provided for the assessee to take up the matter right up to the court. Here the amendment moved by the Hon. Minister for Local Administration seeks to modify the existing rule. Ordinarily in this Committee the Chairman is the person who has the last word and the members are without any power except that of persuasion. In the Taxation Appeals Committee the present amendment seeks to reinforce the authority of

the Chairman. If there is a difference of opinion between the Chairman and one other member, the amendment proposes that the Chairman shall use all arts of persuasion against the other member, and if he does not succeed, then the Chairman's opinion shall prevail. Sir, if we give power to the persons who constitute the Tribunal, it must be an equal power as in a Judicial Tribunal where, if there are two judges sitting and if both of them differ, the *status quo* ante will prevail.

"It would not be correct to confer such large powers on the presiding authority. Of course I know that in judicial tribunals when there is a difference of opinion, the opinion of the senior judge prevails. But in a democratic assembly and in a democratic tribunal, every person who constitutes the tribunal must have equal powers and equal authority. I know that in the Taxation Appeals Committee previously there was no outside person presiding over the tribunal. It was all members of the City Council. After all, it is a body which ought to know its own resources and suggest taxation suitably. It ought to know what taxes are to be levied. After all those members of the Taxation Appeals Committee are also persons who know their responsibility. I therefore sincerely believe that there is absolutely no need for this Government official to sit in a democratic body like the Taxation Appeals Committee. All the three members of the Taxation Appeals Committee as it was originally constituted were members of the City Council. It also jars a little against democratic ideas, if a person who is not a member of the City Council were to sit in judgment in the Taxation Appeals Committee over the others. After all he is not an elected member but an extraneous person, viz., a Government official appointed by the Government. 10-50 a.m.

"All the same, I think the amendment is necessary because the courts have held or at any rate likely to hold, that if a committee is constituted by three people, then their judgment will be valid only if all the three members attend the meeting. At present as the two members are honorary members, they cannot be compelled to be present at all meetings. With a view to remove the legal defect and evolve a correct procedure, the Hon. Minister has brought this amendment, viz., that there shall be two members and a Chairman and in case of a difference of opinion among them, the opinion of the Chairman shall prevail, so that it may act as the final word."

* SRI T. VISWANATHAM:—"Mr. Speaker, Sir, some of the arguments advanced by the member who has just preceded me are arguments with which I am in entire agreement. But I am not in agreement with the conclusion arrived at from his arguments. I accept his argument that Government servants have no place in the Taxation Appeals Committee. The conclusion arrived at viz., that the Government are correct in having brought forward the amendment, is a statement which I strongly oppose.

"Sir, the Hon. Chief Minister by way of intervention, had said that members of the City Council are soft-hearted, that they owe a duty to please their constituencies and therefore they are not likely

to revise the taxes very favourably to the Corporation and enable the Corporation to get more revenues. I submit, Sir, that propositions of that type may be more reasonably advanced against that Taxation Appeal Committee wherein the Government are ushering in a Government official drawing a salary of Rs. 500 or more a month, to be the Chairman and to act as the final authority in taxation appeals wherein revenues worth about a crore to the Corporation are involved. In the opinion of the Government, it seems that non-officials are likely to be very soft-hearted. Time and again the Hon. Chief Minister comes here on the floor of this House and defends the Government servants by saying that they are scrupulously honest, diligent in their work, possess integrity and are above any kind of suspicion. On the other hand, whenever there is an opportunity, he steps in and says a word or two about the soft-heartedness of the non-officials.

" Sir, I cannot agree to the spirit of the approach to the whole question. In the mufassal also, we have got this problem. When it is said that non-officials are soft, can it not be said that some members of the Government also become soft at times, Sir? Even the highest paid Government servant becomes soft at certain times, when he has to exercise human considerations. When such is the case, how can it be said that non-officials alone cannot be expected to work with integrity? I demur to such a statement with all the vehemence at my command. When we condemn the non-officials, we are condemning ourselves.

" I submit, Sir, I have also got some experience in Municipal administration. There also we have these Taxation Appeals Sub-Committees with authority delegated by the Council. Nowhere has it been shown during these 30 or 40 years, that those people functioning in the Municipalities or in the Taxation Appeals Committees had been soft-hearted. As far as I have seen and as the facts reveal, it has been found that the non-officials are even more strict than the Government officials in the matter of collecting taxes. Whenever a member of a Municipality sits on the taxation side, he feels as though he is running the administration himself. He never lets a single pie of tax escape. In the matter of collecting taxes he is more strict than the Hon. Chief Minister himself.

" Sir, I have had experience for four years in this line. I can certify that there was not a single non-official who decided these cases with a soft heart. I want the Hon. Chief Minister not to give the non-officials that kind of reproach. I submit, Sir, that the provision for appointing a Government official drawing a salary of Rs. 500, on the Committee and making his voice the final one, is against the very spirit of the Constitution which we are trying to work. When I first saw the amendment, I did not pay much attention to it. But when I found that the Chairman is a Government official and not an elected member of the Corporation, I found I was mistaken. I submit, Sir, that such a provision is against all tenets of democracy. I never expected that Sri Sankara Reddi, a

valiant fighter of the people as he is, but one who has got the misfortune, so to say, to be on the Government side now, would ever come forward with an amendment like this. On the other hand he can bring in an alternative amendment giving complete powers to the City Council by saying that members of the Corporation alone can elect a sub-committee to look into the appeals. That would have been more civilised. After all, Sir, these elected members are all Indians. They are not foreigners coming from Iceland, Newfoundland or Great Britain, who are strangers to us. What the Government officials are able to do, surely the non-officials can do. This amendment clearly shows that the Government are not going on the right path of democracy. Hon. Members may excuse me for saying so. But I am obliged to say so. They want to give a petty Government servant varied powers to have the final say over the elected members of the Corporation. I strongly oppose this. I appeal to those in the Congress benches also, who might have come by now to understand the position clearly after listening to the discussion, to realise one point. If we allow the Government to proceed with this amendment, then it will be a forerunner of worse measures giving more and more executive powers to the Government in a field which is not theirs. I appeal to all those who are in the Congress ranks, to all those who are interested in the democratic set-up of our administration, and lastly to all those who are anxious that our hands should not be unnecessarily fettered by Government, to oppose this amendment.

" Not only that; I want that hon. Members on the Congress side should be saved from an embarrassing position. I ask the Hon. Minister for Local Administration to withdraw this. If he does not, I appeal to Members on the Government side not to vote against their own conviction, on party lines.' "

* THE HON. SRI N. SANKARA REDDI :—" Mr. Speaker, Sir, it is suggested by this small change to the rule that the Government want to take away the power of the Corporation or of the Appeals Committee. I submit that it is not correct. On the other hand, on account of the objection raised by the Judge and with a view to make the Appeals Committee more democratic, this change has become necessary. Hitherto, as I have already submitted, in 11a.m. the absence of the other two members, the Chairman alone would sit and decide the appeals. Now this change in the rule makes it incumbent on the Chairman to bring about agreement among the three members, or at least two of them. Only in case where there is no agreement, the Chairman can decide. In all democratic bodies, the presiding officer or chairman has got such power. (An hon. Member : ' But he is a paid officer here.') May be; but he has to do things according to the Act. He has no casting vote, and there must be some finality somewhere. And if anything goes wrong, surely the courts are there to decide on appeal.

" A suggestion has been made that appeals may lie to the Council against the decisions of the Appeals Committee, even as appeals lie to

municipal councils against decisions of the sub-committees. We cannot compare small municipalities and panchayats with a huge Corporation. I feel that the Corporation Council which is a huge body cannot be sitting over these small trifling appeals from day to-day. Sir, I have nothing more to add to what I have already said. This is a small amendment to remove certain administrative difficulties. I commend the amendment to the approval of the House.''

* SRI K. VINAYAKAM :—" Mr. Speaker, Sir . . . ."

MR. SPEAKER :—" I am not going to allow the hon. Member to make a second speech. Is it a personal explanation?"

* SRI K. VINAYAKAM :—" Yes, Sir; while winding up his speech on the motion, the Hon. Minister stated that the case of the Corporation was quite different from the case of small panchayats and municipalities. My submission is that what is democratic in the panchayats and municipalities must continue to be democratic even in a big Corporation."

MR. SPEAKER :—" It is not a personal explanation.

" I now put the motion of the Hon. Sri Sankara Reddi to the vote of the House. The question is—

' That the following draft of a rule proposed to be made by the Governor of Madras in exercise of the powers conferred by section 347 of the Madras City Municipal Act, 1919 (Madras Act IV of 1919), altering Schedule IV to that Act be approved :—

DRAFT RULE.

In the said schedule to rule 14 the following paragraph shall be added, namely :—

" No business shall be transacted at any meeting of the Taxation Appeals Committee unless the Chairman and at least one other member of the Committee are present. If the Chairman and one other member present are divided in opinion as to the decision to be given on any appeal, the appeal shall be decided at a meeting of the Committee attended by all the three members. All appeals coming up before the Committee at a meeting when all the three members are present, shall be decided according to the opinion of the majority of the members. In the event of disagreement among all the three members, the Chairman shall endeavour to bring about agreement among themselves or between any two of them over a specific proposal, failing which the opinion of the Chairman shall prevail." ' "

The motion was carried.